

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. SI-2022-0006

**FOR THE CONSIDERATION OF
COUNCIL**

June 22, 2022

SUBJECT: Lake Drive Shoreline Jurisdiction Action Plan

1. RECOMMENDATIONS:

1. That Council receive Report No. SI-2022-0006 prepared by the Strategic Initiatives Department dated June 22, 2022 respecting the Lake Drive Shoreline Jurisdiction Action Plan.
2. That Council provide direction on the land value rate per square foot (excluding applicable taxes) to be used to divest the Town-owned, surplus road allowance land.
3. That Council provide direction on the appropriate dollar amount (excluding applicable taxes) to be charged per lakeside lot to recover Project costs.
4. That Council set the per lakeside lot survey costs following a formal competitive procurement process for surveying services.
5. That the actual land transfer/closing costs be charged to the transferee(s).
6. That a separate costing process be developed, if required, in instances where multiple parties claim title to a proposed lakeside lot or are disputing a proposed dividing boundary.
7. That a subsequent costing report be brought to Council in advance of any lakeside lot transfers to finalize the costs associated with the transfer.

2. PURPOSE:

As part of the Work Flow Process established under the Lake Drive Shoreline Jurisdiction Action Plan (the extent of Lake Drive under consideration in the Lake Drive Shoreline Jurisdiction Action Plan is appended as Attachment 1 and the 14 step Action Plan is appended as Attachment 2), Town Council, in Policy Step 4, was required to determine whether the divestiture of road allowance lands “will be based upon the concept of profit for the Town, cost recovery only, or expenses to the Town.”

In order to continue with Policy Step 4, Council adopted Resolution (C-2022-0108) on March 30, 2022, directing staff to report back by June 22, 2022 “outlining the price including land costs and actual cost recovery the Town would consider for the divestiture of road allowance lands within the Lake Drive Jurisdiction Action Plan...”.

The purpose of this report is to provide financial information to Town Council for its consideration relating to the pricing of Town road allowance lands proposed to be transferred under the Lake Drive Shoreline Jurisdiction Action Plan.

3. BACKGROUND:

The following excerpt from the *Frequently Asked Questions* section of the Lake Drive Shoreline Jurisdiction Action Plan web page on the Town's website helps set context for this report:

"The Town does not wish to take land. The Town wishes to 'clear up' the title to the numerous properties once and for all. The Town has a legal obligation to deal responsibly with all property that is owned by the Town – such property includes the untraveled portion of the road allowance. The Town wants to treat everyone as fairly as possible, especially when there is more than one person claiming a right to use land that is actually owned by the Town. If a person or his or her family has been using 'beach front' property as the family's private property for years and years, the Town does not intend to change that situation...However, the Town requires the co-operation of individuals...to 'clear up' the title to the Lake Drive land by reaching agreements to allow long enjoyed uses to continue."

Town Council desires to move forward on the Lake Drive Shoreline Jurisdiction Action Plan following a nearly 3 year hiatus due in part to various legal issues relating to Lake Drive and the restrictions and re-allocation of resources arising out of the pandemic.

Accordingly, the following two resolutions were passed by Town Council following a closed session on March 30, 2022:

RESOLUTION NO. C-2022-0108

"In regards to closed session item 18.1 (c) on the agenda under Section 239(2) (e) of the Municipal Act being litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board regarding Lake Drive Shoreline Jurisdiction Matter

1. That Council delegates authority to the CAO to retain and/or allocate appropriate dedicated personnel and resources to advance the Lake Drive Jurisdiction Action Plan, excluding beach associations, as per the direction provided in the March 30, 2022 closed session of Council.
2. That Staff report back to Council with two reports, the first report outlining the price including land costs and actual cost recovery the Town would consider for the divestiture of road allowance lands within the Lake Drive Jurisdiction Action Plan by June 22, 2022, and the second report outlining a schedule to implement the operational and policy steps in the Lake Drive Jurisdiction Action Plan no later than August 10, 2022.

RESOLUTION NO. C-2022-0109

3. That beach associations will be addressed through the second report outlining a schedule to implement the operational and policy steps in the Lake Drive Jurisdiction Action Plan no later than August 10, 2022.”

4. ANALYSIS:

The Town is focused on Road Allowance lands

This initiative is focused on and limited to Road Allowance lands. The Town does not have an interest in Crown land, or land where private ownership is already clear.

The “Lake Drive Shoreline Jurisdiction Action Plan” is both a large and complex Project.

Town Council adopted the 14 step Lake Drive Shoreline Jurisdiction Action Plan in July 2017 (RESOLUTION NO. C-2017 -0409) as the direction that it intended to take to ‘clear up’ title of Lake Drive North and Lake Drive East road allowance lands within the Action Plan. Much of the Action Plan remains to be completed including the establishment of a public consultation process.

Public input has previously been received by the Town through the Lake Drive Ad Hoc Action Committee, which met and considered issues relating to Lake Drive for about two years, after which time that Committee presented recommendations to Town Council. It was following that presentation that Town Council established the Action Plan, and the Action Plan would ultimately create a Town position on the divestiture of the road allowance lands for consideration in the public consultation process referenced above.

The land use and ownership issues within the Action Plan involve layers of complexity that will take time and resources to address, some of which include:

- The identification of road allowance lands that need to be retained for the Town’s municipal road allowance
- The creation of municipal easements as appropriate over those road allowance lands that have been divested
- Conflicting ownership claims between the Town and the adjacent property owner
- Conflicting ownership and boundary claims among adjacent owners
- Third party and stakeholder engagement/involvement (Public, Chippewas of Georgina Island First Nation; The Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry; Lake Simcoe Region Conservation Authority; Municipal Property Assessment Corporation, etc.)
- The need to conduct title searches going back nearly two centuries to confirm both land ownership and road allowance boundaries
- The need to conduct municipal by-law searches going back into the 1800’s to review road dedications and closures

- The creation of lakeside lots and the creation of dividing lot lines between such lakeside lots with every lakeside lot likely being unique. For the purpose of this report we've estimated 350+/- lakeside lots to be created. This number however is based on a high-level GIS analysis and will require refining as the process moves forward.
- The development and approval of a new Official Plan and Zoning By-law amendment as the Town would like to apply consistent official plan policies and zoning provisions on all lakeside lands.
- The consideration of a Development Permit System to evaluate/approve development proposals for these lakeside lands

Council has approved the allocation of dedicated resources to implement the Action Plan

Moving the Action Plan forward at a consistent pace to completion will require dedicated internal resources in partnership with external counsel and consultants for a sustained period of time - upwards of 3 years or more. As indicated in the Background section above, Council authorized the CAO to put in place dedicated personnel and resources to advance the Lake Drive Shoreline Jurisdiction Action Plan. This authorization excluded beach associations, which will be the focus of a separate report in August 2022.

The resources to be allocated to the Project include the following:

- Program Manager, Planning and Corporate Projects (Project Lead)
- Planner/GIS Technologist
- Communications Consultant
- Planning Consultant (if required)
- External Legal Counsel
- Surveyor(s)

In addition to the above, a multi-disciplinary project team of Town Directors and Managers has been assembled to support and steer the Project, both internally and, where necessary, with outside government agencies. The areas of expertise represented on the Project Team include Planning, Transportation, Parks (Waterfront Master Plan), Legal, Finance, Property Tax, Surveying, Environmental and Communications.

Costs to implement the Action Plan (excluding Beach Association component)

As indicated, Council directed that a report come back outlining the price including land costs and actual cost recovery the Town would consider for the divestiture of Road Allowance lands.

There are three primary financial components for implementing the Action Plan. They are:

1. Project costs
2. Lakeside lot creation costs
3. Land Cost (\$ per square foot of land X area of parcel to be transferred)

Category 1: Project Costs

This cost category includes the following:

- Dedicated Staff:
 - Program Manager, Planning & Corporate Projects
 - Planning/GIS Technologist
- External Legal Support
- Communications Consultant
- Planning Consultant (if required)

This cost category can be likened to a fee that would be collected for a planning application (e.g., consent to sever) that requires Town resources to process.

Not factored into this category are Director/Manager time moving forward (Project Team) or overhead (technology, mileage, HR, etc.). Also not included are costs incurred to date related to staff time, legal counsel, and for appraisals.

Category 2: Lakeside Lot Creation Cost

This cost category includes the following:

- Costs to survey a lakeside lot
- Legal costs to transfer/close lot

Discussions were undertaken with surveyors in 2019 and more recently. Based on these discussions a cost per proposed lakeside lot would be from approximately \$2,500 to \$4,500 depending on numerous variables. The Action Plan directs that a competitive procurement be undertaken for surveying services, at which time the cost per parcel would be finalized.

In terms of the legal costs to transfer/close a lot, the Town solicitor has advised that the upper limit would be \$1,000.

Category 3: Land Cost

This cost category includes the following:

- A per square foot rate applied to the total area of the lakeside lot

Land appraisals of lakeside lands were undertaken in 2019 at the direction of Council. Those appraisals are confidential as they deal with specific parcels. Council has been made aware of the valuations provided in those appraisals.

Legal counsel recommended that Town Council make itself aware of the appraised value of the lakeside lands so that it could use the appraised value as one of its considerations in determining an ultimate divestiture price for the lakeside lands. Because of the complexity of the various issues surrounding the ownership, use and possession of the lakeside lands, appraised value will likely be just one of the many factors used by Town Council when it sets the price for the divestiture of road allowance properties. This report seeks Council's direction on that per square footage cost.

Table 1 below sets out the three cost categories with estimated pricing, namely *Category 1 - Projects Costs*, *Category 2 – Lot Creation Costs* and *Category 3 – Land Costs*. Based on a high-level GIS analysis, it appears that there may be the potential to create 350 +/- separate lakeside lots. *Category 1: Projects Costs* would therefore potentially be divided among 350 potential lakeside lots. The exact number of lakeside lots would be determined as the initiative advances and more investigation is conducted (i.e., surveys, title searches, etc.). The 350+/- lakeside lot number assumes full participation. For comparison purposes, the Table also provides the per lot cost based on low, medium and medium-high participation scenarios.

Table 1:	
Costing Summary for Transferring Lakeside Lots	
	Cost per Lakeside Lot
Category 1: Project Costs (divided across 350 potential lakeside lots - exact # of lots TBD)	
Program Manager (\$480K for 3 years inclusive of payroll costs)	\$1,371
Planner/GIS Technologist (\$308K for 3 years inclusive of payroll costs)	\$880
Communications Consultant (\$75K over 2-3 years)	\$214
Planning Consultant (\$100K over 2-3 years)	\$285
External Legal Counsel (\$300K over 3 years)	\$857
Subtotal (Project Costs excluding applicable taxes)	\$3,607
<i>Alternate Scenarios:</i>	
- Low Participation (100 lakeside lots): \$12,630 / lot	
- Medium Participation (200 lakeside lots): \$6,315 / lot	
- Medium-High (300 lakeside lots): \$4,210 / lot	
Category 2: Lot Creation Costs	
Survey Cost	\$2,500 - \$4,500
Land Transfer/Cost to Close	\$1,000
Subtotal (Lot Creation Costs excluding applicable taxes)	\$3,500 - \$5,500
Category 3: Land Cost	
Land Value Rate: \$ per sq. ft. (excluding applicable taxes) to be determined by Council	\$ per sq. ft. rate (excluding applicable taxes) multiplied by total square footage of lakeside lot
NOTE: All applicable taxes need to be added to the above.	

Cost considerations

Total costs cannot be determined at this early point in the Project. As the following steps are completed, the Town will be in a better position to assess the cost to the Town and thus the cost to the participants in this Project:

- Preparation of a detailed project plan/schedule
- Eligible property owners (or others as determined by Council) surveyed to confirm interest in obtaining legal interest in lakeside lots
- Determination of which lands the municipality considers surplus
- Competitive procurement undertaken to determine more detailed survey costs

Of the three cost categories, namely *Category 1- Project Costs*, *Category 2 - Lot Creation Costs* and *Category 3 - Land Costs*, Town Council has control over only one of them, namely *Category 3 - Land Costs*. Accordingly, Town Council may want to set the land value per sq. ft. cost at this time to provide greater certainty for potential participants.

Further, Town Council may want to consider setting an upper limit for the Project Cost fee (Category 1) at this stage as such would help to provide additional certainty to potential participants. However, this may result in the Town having to take on, rather than pass on, transfer costs. For instance, if Town Council were to approve an upper limit charge of \$3,607 per Lakeside Lot for Project Costs (Category 1) but only 200 Lakeside Lots were created, it would represent a difference of approximately \$541,600 between the estimated total Project Costs (Category 1) of \$1,263,000 and the Project Cost related funds collected of \$721,400 (200 lots x \$3607).

Fostering maximum participation

A critical aspect to advancing this matter is establishing a price threshold that will foster maximum participation. Many persons have already suggested that price is their primary consideration when it comes to participating in the Town's Action Plan. Low participation could lengthen the process, and make it even more complex and costly to those who still wish to participate. There is a significant financial and organizational capacity benefit to the Town in having this matter dealt with quickly. The expeditious implementation of the Action Plan and transfer of the lands, also serves to reduce risk and liability to the Town.

Steps will be considered to foster maximum participation and to minimize undue financial burden. Although it is not the subject matter of this report, the Town will also want to consider different payment or deferral options for transferees.

Certain instances may require additional fees

In instances where multiple parties are disputing one another for the rights to a lakeside lot/lands, the Town would reserve the right to adjust fees to cover additional legal costs.

Next Steps

As per Council’s direction, staff will report back on August 10, 2022 with a second report outlining a schedule to implement the operational and policy steps in the Lake Drive Shoreline Jurisdiction Action Plan. The schedule for implementing the Action Plan regarding beach associations will also be addressed in the August 2022 report.

5. RELATIONSHIP TO STRATEGIC PLAN:

The following is one of 39 actions in the current 2019-2023 Corporate Strategic Plan under the Deliver Exceptional Service pillar:

- Continue collaborative efforts to address jurisdiction along Lake Drive

6. FINANCIAL AND BUDGETARY IMPACT:

The budget for this initiative is as follows:

Core Cost components	Upper Limit
Program Manager (up to 3 years)	\$480,000 (incl. payroll costs)
Planning/GIS Technologist (up to 3 years)	\$308,000 (Incl. payroll costs)
Communications Support	\$75,000 (excl. taxes)
Planning Consultant	\$100,000 (excl. taxes)
Legal Counsel	\$300,000 (excl. taxes)
Surveying (\$2,500-\$4,500/parcel x approx. 400 parcels) <i>Rounded up to 400 lots for contingency purposes</i>	\$1,000,000 – \$1,800,000 (excl. taxes)
Total	\$2,263,000 - \$3,063,000 (excl. taxes)

Legal costs for transferring the parcels are not included above as it is anticipated those costs would be directly flowed through to the transferee as each transfer occurs. It’s also noted that the above does not factor in budget for planning related appeals.

7. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

There are no legislated notice requirements associated with this report.

8. CONCLUSION:

The Town seeks to resolve title matters within the Lake Drive Shoreline Jurisdiction Action Plan that have created challenges for decades. In seeking this resolution, the Town wants to clarify ownership, and where possible, divest its ownership of surplus road allowance. We believe there is a shared interest in clarifying title along Lake Drive East and North.

APPROVALS

Prepared By: Shawn Nastke, Director, Strategic Initiatives

John Hart, Town Solicitor

Reviewed By: Harold Lenters, Director, Development Services

Rob Wheater, Deputy Chief Administrative Officer &
Treasurer

Approved By: Ryan Cronsberry, Chief Administrative Officer

Attachments:

Attachment 1: Map of Action Plan Boundary

Attachment 2: Lake Drive Shoreline Jurisdiction Action Plan